

**Congress of the United States**  
Washington, DC 20510

November 22, 2011

The Honorable Kathleen Sebelius  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Timothy Geithner  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

The Honorable Hilda Solis  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Dear Secretary Sebelius, Secretary Geithner, and Secretary Solis:

As you continue the important work necessary to implement the Affordable Care Act, we write to express our strong support for increased transparency and accountability within the health insurance industry to make sure consumers are being protected. Effective competition in private health insurance markets requires that consumers have extensive and meaningful information about what health insurance covers, what it costs, and how it works.

To improve transparency in the health insurance market and help prevent further industry abuses, we authored a provision in the health reform law that requires health insurance companies offering group or individual coverage to publicly disclose accurate and timely information about claims payment policies and practices, periodic financial disclosures, data on enrollment and disenrollment, data on the number of claims denied, data on rating practices, information on enrollee and participants' rights, and other information that the Secretary deems appropriate. This information must be submitted to the Secretary of Health and Human Services, the state, the public, and the health insurance exchange and be written in plain language so consumers can easily understand how it affects their coverage. These requirements promise to shed an unprecedented amount of light on how health insurance companies do business and use the premium dollars of millions of Americans across the country.

The black box in which insurers have historically operated has provided them with the opportunity to deny care, unfairly charge higher prices, or engage in insidious practices such as “purging” – in which companies deliberately price small businesses out of health insurance when an employee incurs high health care costs due to illness or injury. Lack of transparency was also the subject of an investigation by the New York Attorney General and hearings conducted by the Senate Commerce Committee, which revealed that the health insurance industry relied on a secretive health care data company called Ingenix that was used to deceive American consumers into paying billions of dollars that insurance companies should have been paying. The Ingenix investigations show that the health insurance industry is willing to go to great lengths to withhold accurate, objective health care payment information from American consumers. The Commerce Committee report of June 24, 2009, is attached for your reference.

In another notorious example, health insurance companies have routinely offered coverage and accepted their customers’ premium payments, but then cancelled coverage retroactively when a consumer gets sick and needs care – a practice known as “rescission.” Though industry representatives claim that rescission is rare, we cannot say whether this is accurate because insurance companies are not required to routinely disclose this information. The Affordable Care Act ends this abusive practice once and for all.

Under health reform, insurance companies will also no longer be allowed to deny coverage because of a preexisting condition or vary premiums based on gender or health status. The law prohibits insurers from setting lifetime limits on coverage and restricts the use of annual limits on care while providing for additional oversight through review of rate increases, among other important protections. We must remain vigilant to make sure that the health insurance industry is indeed complying with these requirements to give consumers the full benefit of the protections that Congress intended. For example, without adequate transparency and disclosure, insurers could easily continue to discriminate against women by charging them a higher premium or deny claims that they should be paying.

We were therefore encouraged that in proposed regulations on health insurance exchanges, the Department of Health and Human Services (HHS) took steps to implement the transparency and disclosure provisions outlined in Section 2715A of the Public Health Service Act, which it notes will be done in collaboration with the Department of Labor and the Department of the Treasury in order to ensure that these reporting standards are applied appropriately across the insurance market. We urge the Departments to make sure these requirements are implemented promptly and effectively for the benefit of consumers. We have written under separate cover to outline our suggestions for strengthening the Summary of Benefits and Coverage and related consumer disclosure provisions.

Disclosures to consumers are necessary, but not sufficient, to shine a much-needed light on the practices of the insurance industry. Therefore, implementation of the transparency and disclosure provision under Section 2715A of the Public Health Service Act is essential to advancing reform of the health insurance market. First, we urge timely implementation of this provision. This information should be collected and analyzed in 2012 to be available in time for



the first exchange open enrollment period in late 2013. Second, we fully agree with HHS that the “Transparency in Coverage” requirements for qualified health plans equally apply to all group health plans and health insurance issuers in the individual and group markets. The Affordable Care Act is clear on this point and we request that all three Departments fully apply the law in these markets. All Americans deserve to be confident that their health insurance company is complying with the law regardless of which market they purchased their policy in, and we urge you to act swiftly to implement these transparency rules.

Third, it is essential that these disclosures be publicly reported and available to consumers, as required by the Affordable Care Act. Increased transparency will help spur insurance companies to change their practices in a way that benefits the consumers they serve. We strongly encourage HHS to specify that insurance companies must make these disclosures publicly available on their website, on the exchange website, and on request for consumers who do not have Internet access so consumers and policymakers, can access the information easily, as required by law.

Fourth, we strongly agree that health insurance exchanges should be able to use the information collected under these regulations to inform both their certification review process for qualified health plans and to help with their consideration of past performance of health insurance issuers. We respectfully request that the exchange regulation be made more specific by noting that the exchanges may act upon the information they collect when making certification determinations or reviewing an insurance company’s history.

Finally, with regard to a closely related topic, we wish to express our support for the implementation of the strongest possible consumer assistance provisions in the new health insurance exchanges. Consumer assistance programs are essential to helping consumers understand and be actively engaged in coverage decisions. We were pleased to see that the proposed rule requires exchanges to have a consumer assistance function and correctly identifies the need for consumer assistance functions to be built into the exchange through call centers and websites. Though these efforts are critical, we also encourage HHS to make this consumer assistance function as robust as possible by recognizing that successful consumer assistance programs will provide one-on-one assistance to educate individuals about their health care options, facilitate enrollment, maintain coverage, and proactively address problems that may arise. By helping individuals and families understand the new coverage options and consumer protections in the Affordable Care Act, consumer assistance programs can help Americans gain access to the health care options that work best for them and encourage those that might not have sought coverage to get covered.

Every American deserves affordable, comprehensive health care coverage and – thanks to health reform – we are much closer to this goal. However, to fully realize the promises of the Affordable Care Act, we must make clear that the health insurance industry can no longer take consumers’ hard-earned premium dollars without providing essential information about the health insurance products they are selling. The time has come to introduce much-needed transparency throughout the insurance industry, and we appreciate your diligence in helping

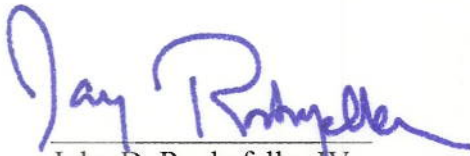
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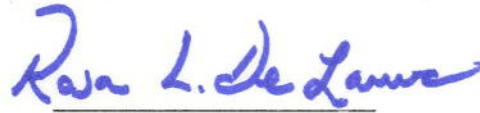
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achieve that goal for the sake of American consumers, in accordance with the full letter and spirit of the law.

Sincerely,



John D. Rockefeller IV  
United States Senator



Rosa L. DeLauro  
Member of Congress